IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.6992 of 2004

Smt.Hemlata Balwant Gaikwad ..Petitioner

vs.

1. State of Maharashtra & Ors. ..Respondents

Shri P.B.Shalligram for petitioner
Shri V.P.Malvankar, A.G.P. for respondents.

CORAM: A.P.SHAH &
S.U.KAMDAR JJ.
16th Setember, 2004

P.C.

1. Rule. Respondents waive service.

2. By consent rule is made returnable forthwith.

3. The petitioner is the widow of one B.S.Gaikwad who was employed in Photozinco Govt.Press Pune. He was working as Press Oversear (Class III). The present petition is filed by the widow for difference of family pension from 10th April, 1995 till date and for releasing the part of gratuity amount which is withheld by the State Govt. and for benefit of Link Insurance Scheme.

4. It appears that a chargesheet was issued to the petitioner's deceased husband alongwith another employee D.P.Kate on 4th August, 1992 on the allegation that both the employees caused loss to

the Govt. while disposing of the waste paper of the Press. The Enquiry Officer came to be appointed who held the deceased husband of the petitioner and D.P.Kale guilty of the charges. The enquiry officer by his report dated 28th July, 1993 recommended the punishment of recovery of loss of Rs.28,497/- and reduction of salary by 8 increments. The petitioner's husband died on 10th April, 1995. Though the enquiry was completed on 28th July, 1993 no punishment was imposed on the deceased husband of the petitioner. However, the other employee namely D.P.Kate was punished as per the report of the Enquiry Officer.

5. D.P.Kate filed Original Application No.863 of 1993 in the Maharashtra Administrative Tribunal for quashing the enquiry and setting aside the punishment. The Tribunal allowed the O.A. and the order of punishment was quashed and set aside. It was held by the Tribunal that the report of the enquiry officer was based on no evidence in so far as the charge of intentional ommission on the part of the employee to deceive the Govt. and cause loss to the Govt.

6. In light of the decisison of the Tribunal the petitioner is clearly entitled to refixation of her family pension as well as amount of gratuity

withheld by the State Govt. We accordingly direct the respondents to forthwith release the gratuity amount with simple interest at the rate of 8% p.a. from 1st June 1995 till payment. The respondents are further directed to refix the family pension of the petitioner with effect from the date of death of the deceased i.e. 10th April, 1995 by giving effect of additional 8 increments in salary and release the differential amount within 3 months with simple interest at the rate of 8% p.a.from 1st June, 1995. The respondents shall also consider the petitioner’s request for benefits of the Link Insurance Scheme and extend the benefit of the said scheme to the petitioner if she is covered by the same. Rule is accordingly made absolute.